THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No. 5249 of 2001

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Dated: 13.02.2006

Between:

R. Janardhan Reddy, S/o Chandra Reddy, R/o Sambaiahpally village, Sultanabad Mandal, Karimnagar District.

..... PETITIONER

AND

The Depot Manager, APSRTC, Karimnagar-II Depot, Karimnagar District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No. 5249 of 2001

Order:

This writ petition is filed seeking a Writ of Mandamus declaring the proceedings No.331(5)/91-KR-II, dated 22.01.1993 of respondent No.1-Depot Manager and consequential proceedings No.Peshi/19(79)/97-RM:KRMR, dated 25.09.1997 of respondent No.2-Regional Manager and also the Award dated 27.10.2000 passed by the Industrial Tribunal-Cum-Labour Court, Godavarikhani, Karimnagar, in I.D.

No.9 of 1998, as illegal and arbitrary, and for consequential direction to the respondents to reinstate the petitioner into service with all consequential benefits.

The petitioner states that after verification of all the certificates, he was appointed as a Conductor in respondent-Corporation during the year 1990 and posted to Karimnagar-II Depot. Subsequently, he was served with a charge memo-cum-suspension order dated 18.12.1991 calling upon his explanation for producing a bogus S.S.C. Certificate at the time of his selection and suspended him from service. He further states that the respondents-Corporation, without affording any opportunity of hearing to him, conducted enquiry in his absence, and respondent No.1, based on the said enquiry report and without considering the fact that the Criminal Case being C.C. No. 1256 of 1992 filed by the Corporation against the petitioner ended in acquittal, terminated the services of the petitioner vide proceedings dated 22.01.1993. Aggrieved by the said orders, petitioner filed an appeal before the Deputy Chief Manager, which was rejected vide proceedings dated 04.10.1996. Against the said orders, the petitioner made a review appeal to respondent No.2-Regional Manager, who also rejected the same by order dated 25.09.1997. Ultimately, the petitioner raised an industrial dispute in I.D. No. 9 of 1998 and the Labour Court, vide its order dated 27.10.2000, also dismissed the same. Hence, the petitioner filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondent-Corporation.

A perusal of the record would clearly disclose that on the allegation that the petitioner produced a bogus S.S.C. Certificate at the time of his selection, he was suspended from service vide charge memo-cum-suspension order dated 18.12.1991. In the departmental enquiry conducted against the petitioner, the petitioner has not at all participated and based on the enquiry report the petitioner was removed from service as the charges leveled against him were proved. Against the said removal, the petitioner filed an appeal and review appeal, which were also rejected. Ultimately, the petitioner raised an industrial dispute in I.D. No. 9 of 1998 and the Labour Court, after considering the material available on record, dismissed the case of the petitioner and upheld the removal of the petitioner from service.

The main contention of the learned counsel for the petitioner is that against the same charges, the Criminal Court, vide orders passed in C.C. No.1256 of 1992,

acquitted the petitioner on the ground that the charges leveled against him are not proved, and that the Labour Court has not considered the said order passed by the Criminal Court, therefore, the award passed by the Labour Court be set aside and the petitioner is entitled for reinstatement.

I am unable to accept the said contention. A perusal of the Labour Court award clearly shows that on behalf of respondents-Corporation nearly 18 documents Exs.M1 to M18 were marked, but on behalf of the petitioner no documents were marked. There is no proper explanation from the learned counsel for the petitioner for not producing and marking any documents much less the copy of judgment in C.C. No.1256 of 1992 on behalf of the petitioner before the Labour Court. When the petitioner has not produced the copy of judgment in C.C. No. 1256 of 1992 before the Labour Court, it cannot be said that the Labour Court has not considered the order passed by the Criminal Court in C.C.
No. 1256 of 1992.

Further, mere acquittal of the petitioner by the Criminal Court does not automatically give him the right to be reinstated into the service. Before the Labour Court the evidence led by the management was different from that led by the prosecution in the criminal case and the approach and the objectives of the criminal proceedings and the disciplinary proceedings are altogether distinct and different. Therefore, it was open to the Labour Court to have come to an independent conclusion dehors the finding of the Criminal Court.

Apart from that, the parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

The award of the Labour Court judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, does not call for interference, for the petitioner failed to point out any of infirmities.

For the reasons, there is no merit in the writ petition and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 13.02.2006

Nsr/Ksr